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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

BOEHLER, ANNE MARIE M

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 06/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/981,246

Applicant(s)

DAVIS ET AL.

Examiner

Anne Marie M Boehler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19,22,24-28,30,31 and 60-68 is/are pending in the application.
- 4a) Of the above claim(s) 66-68 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19,22,24-28,30 and 31 is/are allowed.
- 6) ☒ Claim(s) 60-64 is/are rejected.
- 7) ☒ Claim(s) 65 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. Newly submitted claims 66-68 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claims 66-68 define a method of assembly which is a distinct invention from the drive train embodiment elected and previously claimed.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 66-68 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 62 is rejected under 35 U.S.C. 102(b) as being anticipated by Musgrave.

Musgrave shows a straddle seat vehicle with an engine 31 having a vertical output shaft 4. A first transmission (including pulleys 47, 89, and belt 87) lies in a horizontal plane below the engine. A second transmission 93, which includes right angle gearing, is mounted next to engine and above the first transmission. Input to the second transmission is through a vertical shaft 91 and output is through a horizontal shaft 127. The first transmission is mounted within a casing 10 that is mounted to the frame. Both the engine and the second transmission are mounted to the top of the casing of the first transmission, not directly to the frame.

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 60 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Musgrave in view of Shinozaki.

Musgrave shows all of the claimed features except that the output from the second transmission does not extend aft of the input shaft to the second transmission.

Shinozaki shows two separate, alternative embodiments. In one embodiment, the transmission output shaft extends transversely from the transmission to drive a chain connection to the drive wheel. In a second embodiment (Figure 8), the transmission output shaft extends longitudinally to the rear of the vehicle.

It would have been obvious to one of ordinary skill in the art to modify the drive connection from the Musgrave second transmission to the drive wheel to be a longitudinal drive shaft, rather than a chain transmission, as taught by Shinozaki, and as is old and well known in the art, in order to provide a compact and reliable drive connection.

6. Claims 63 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Musgrave in view of Buschbom (USPN 4,449,606).

Musgrave lacks shock absorbing pads between the engine/transmission and the frame.

Buschbom shows a vehicle drive train with an engine and transmission assembly configured as a pre-assembled modular unit mounted to the vehicle frame by shock absorbing pads 219.

It would have been obvious to one of ordinary skill in the art to form the engine/transmission assembly of Musgrave as a preassembled modular unit and provide it with shock absorbing pads, as taught by Buschbom, in order to reduce the transmission of vibrations from the engine to the vehicle frame.

7. Claims 19, 22, 24-28, 30 and 31 are allowed.
8. Claim 65 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
9. Applicant's arguments with respect to claims 60-64 have been considered but are moot in view of the new ground(s) of rejection.
10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Marie M Boehler whose telephone number is 703-308-0422. The examiner can normally be reached on 7:30-5:00, Monday-Thursday, and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

amb 6/1/01
Anne Marie M Boehler
Primary Examiner
Art Unit 3611

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